

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

FERNANDO GASTELUM,

Plaintiff,

v.

BEST BUY, INC.,

Defendant.

No. 1:23-cv-00244-ADA-BAM

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS DECLINING
SUPPLEMENTAL JURISDICTION AND
DISMISSING STATE LAW CLAIMS
WITHOUT PREJUDICE

(ECF No. 8)

Plaintiff Fernando Gastelum (“Plaintiff”), proceeding pro se, initiated this action on February 17, 2023, asserting claims for injunctive relief under the Americans with Disabilities Act of 1990 (“ADA”), a claim for statutory damages under California’s Unruh Civil Rights Act (“Unruh Act”), and a claim for damages under California Disabled Persons Act pursuant to California Civil Code §§ 54-54.3. (ECF No. 1.) The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

Following an order to show cause, (ECF No. 4), on March 21, 2023, the assigned Magistrate Judge issued findings and recommendations, recommending that the Court does not have diversity jurisdiction over Plaintiff’s Unruh Act claims, California Disabled Persons Act claim, and any other state law construction-related accessibility claim. (ECF No. 8.) The Magistrate Judge also recommended that the Court decline to exercise supplemental jurisdiction over Plaintiff’s state law claims and those claims be dismissed, without prejudice, pursuant to 28 U.S.C. § 1367(c)(4). (*Id.*)

1 The findings and recommendations were served on Plaintiff and contained notice that any
2 objections thereto were to be filed within fourteen days after service. (*Id.* at 15.) No objections
3 have been filed, and the time in which to do so has passed.


4 In accordance with the provisions of 28 U.S.C. § 636 (b)(1)(c), this Court has conducted a
5 *de novo* review of the case. Having carefully reviewed the entire file, the Court finds that the
6 findings and recommendations are supported by the record and proper analysis.

7 Accordingly, it is hereby ordered that:

- 8 1. The findings and recommendations issued on March 21, 2023, (ECF No. 8), are
9 ADOPTED in full;
- 10 2. The Court finds that it does not have diversity jurisdiction over Plaintiff's Unruh
11 Act claim, California Disabled Persons Act claim, and any other state law
12 construction-related accessibility claim;
- 13 3. The Court declines to exercise supplemental jurisdiction over Plaintiff's Unruh Act
14 claim, California Disabled Persons Act claim, and any other state law construction-
15 related accessibility claim;
- 16 4. Plaintiff's Unruh Act claim, California Disabled Persons Act claim, and any other
17 state law construction-related accessibility claims are DISMISSED without
18 prejudice, pursuant to 28 U.S.C. § 1367(c)(4); and
- 19 5. This matter is referred back to the assigned Magistrate Judge for further
20 proceedings.

21
22
23 IT IS SO ORDERED.

24 Dated: June 30, 2023

25
26
27
28

UNITED STATES DISTRICT JUDGE